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EXAMINER	
COLBERT, ELLA	
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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHRISTOPHER F. PARKER

Appeal 2009-004071
Application 09/349,198
Technology Center 3600

Decided: February 23, 2010

Before, HUBERT C. LORIN, ANTON W. FETTING, and BIBHU R. MOHANTY, *Administrative Patent Judges*.

MOHANTY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Appellant seeks our review under 35 U.S.C. § 134 (2002) of the final rejection of claims 1-4 and 12-20 which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

SUMMARY OF THE DECISION

We REVERSE.

THE INVENTION

The Appellant's claimed invention is directed to a database recovery system for recovering a table of a database that does not require the entire database to be recovered (Spec. 1:4-7). Claim 1, reproduced below with numbering and brackets, is representative of the subject matter of appeal.

> 1. A system for recovering a database table comprising:
> a database table recovery system operable to:
> retrieve a backup copy of a tablespace;
> [1] apply updates to the backup copy from a log associated with a database table; and
> [2] restore the database table associated with the tablespace from the updated backup copy without recovering the tablespace; and
> [3] a tablespace access system coupled to the database table recovery system, wherein the tablespace access system is operable to restrict access to the tablespace to read-only access.

THE REJECTIONS

The Examiner relies upon the following as evidence in support of the rejections:

Barry	US 5,517,641	May 14, 1996
Sockut	US 5,721,915	Feb. 24, 1998

The following rejections are before us for review:

1. Claims 1-4 and 12-20 are rejected under 35 U.S.C. § 103(a) as unpatentable over Sockut and Barry.

THE ISSUE

At issue is whether the Appellant has shown that the Examiner erred in making the aforementioned rejections.

This issue turns on whether Sockut and Barry disclose the claim limitation to "apply updates to the backup copy from a log associated with a database table; and restore the database table associated with the tablespace from the updated backup copy without recovering the tablespace".

FINDINGS OF FACT

We find the following enumerated findings of fact (FF) are supported at least by a preponderance of the evidence:[1]

FF1. Sockut has disclosed a method of reorganization of a database management system. Data is copied from an old area in the table space to a new area in the table space in reorganized form (Abstract).

FF2. Sockut at Col. 2:4-11 discloses that the RBA (relative byte address) is sometimes called a log sequence number (LSN). A log consists of a sequence of entries in a file, recording the changes that occur in a database. The reorganization copies data from an old area of the table space into a new area in reorganized form.

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[1] *See Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Patent Office).

FF3. Sockut at Col. 3:61-4:17 discloses that data is copied from an old area to a new area in the table space in reorganized form. The new area is the new version of the table space after reorganization.

FF4. Sockut at Col. 9:18-22 discloses that a backup copy of the new table space is created.

FF5. Sockut at Col. 1:20-33, Col. 2:4-11, Col. 3:61-4:17, and Col. 9:19-22 does not disclose applying updates to a backup copy from a log associated with a database table and restoring the database table associated with the tablespace from the updated backup copy without recovering the tablespace.

PRINCIPLES OF LAW

"Section 103 forbids issuance of a patent when 'the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.'" *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, (3) the level of skill in the art, and (4) where in evidence, so-called secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). *See also KSR*, 550 U.S. at 407 ("While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.") In *KSR*, the Supreme Court emphasized "the need for caution in granting a patent based on the combination of elements found in the prior art," *id.* at 415-16.

ANALYSIS

The Appellant argues that the rejection of claim 1 is improper because Sockut and Barry fail to disclose limitations [1] and [2] identified in the claim above. The Appellant argues that the Sockut and Barry references relate to *reorganizing* tablespaces, not *recovering* a database table (Ans. 16). The Appellant argues that *recovering* a database table is the process of restoring a database table to a prior state following, for instance, erasure or corruption. In contrast the Appellant argues *reorganizing* a tablespace, as shown by Sockut, is the process of rearranging clusters (Br. 16).

The Examiner has determined that Sockut discloses the argued cited limitations [1] and [2] from claim 1 at Col. 2:4-11, Col. 3:61-4:1-17, and Col. 9:18-22 (Ans. 9-10). The Examiner has determined that the "reorganization process is analogous to the recovering of the database…tablespace without recovering the tablespace" (Ans. 10).

We agree with the Appellant. The portions of Sockut cited by the Examiner do not disclose "*applying updates to a backup copy* from a log associated with a database table and *restoring the database table* associated with the tablespace from the updated backup copy without recovering the tablespace" (FF5). Sockut at the portions cited by the Examiner has failed to disclose *restoring* the database table (FF5) as claimed which is different than *reorganizing* the database as the same table spaces are not used. The Examiner has not asserted that Barry teaches these cited limitations.

For these reasons the rejection of claim 1 and its dependent claims is not sustained. Claims 5-6 and 17 contain limitations similar to the one addressed above the rejection of these claims as well as their dependent claims is not sustained for these same reasons.

CONCLUSIONS OF LAW

We conclude that Appellant has shown that the Examiner erred in rejecting claims 1-4 and 12-20 under 35 U.S.C. § 103(a) as unpatentable over Sockut and Barry.

DECISION

The Examiner's rejection of claims 1-4 and 12-20 is reversed.

REVERSED

MP

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